

REMARKS

In response to the above Office Action, claim 1 has been amended to more particularly define Applicant's invention and distinguish it from the cited prior art. More particularly, claim 1 has been amended to positively claim that it is sportswear for an athlete made, at least in part, from the claimed fabric rather than just the fabric per se. This is to give meaning to the limitations in the claim of the fabric's surface relative to the body of a wearer of the sportswear. Support for this can be found in claim 10 which has been cancelled. Claim 1 has also been amended to include the limitations of claim 2, which has also been cancelled.

Claim 1 now relates to a sportswear for an athlete comprising sportswear, made at least in part, from a fabric having a fabric surface and a compression ratio of a micro-area in the fabric surface on a surface side opposite to the body of a wearer of the sportswear of from 8 to 90%, and having streaky protruded portions on the surface side opposite to the wearer's body, wherein the protruded portions have a width of 100 to 2,500 μm , and a height of 30 to 300% of the width of the protruded portions.

Claims 3-9 have been retained, but made dependent on just claim 1 and claims 11 and 12 now limit the sportswear to swimwear.

In the Office Action, the Examiner continued to reject the claims under 35 U.S.C. § 102(b) for being anticipated by, or in the alternative under 35 U.S.C. § 103(a) for being obvious over Masanobu. The rejection is identical to the rejection set forth in the Office Action of March 22, 2007, and includes the comment on page 2 that full consideration of Applicant's arguments regarding Masanobu "is being deferred pending obtaining a full human translation of the reference from the PTO translation department." This is in spite of the fact that Applicant submitted "a complete English

translation” of the reference in the Reply filed September 19, 2007. Thus, it is not clear exactly what the Examiner’s position is with respect to the Masanobu reference.

Nevertheless, Applicant has further amended his claims as discussed above to strengthen his argument that the claims are neither anticipated by nor are obvious over this reference.

The fabric of the sportswear of the present invention has a compression ratio of a micro-area in the fabric’s surface on a surface side opposite to the body of a wearer of the sportswear of from 8 to 90%, and has streaky protruded portions on the surface side opposite to the wearer’s body (claim 1). For example, when swimwear (claim 11) is made of the fabric having the streaky protruded portions arranged on the surface side opposite to the wearer’s body, resistance of the swimwear to a fluid such as water can be remarkably decreased.

On the other hand, Masanobu discloses a knitted fabric for swimming suits having specific uneven portions (concave-convex portions) on the back surface side. That is, the specific uneven portions are arranged on the skin side surface of the fabric in the swimming suit or on a side opposite to that on which the protrusions are located in the present invention. This is disclosed in paragraph [0020], line 4 of the English translation of Masanobu. The swimming suit has the effect of water omission and cold feeling mitigation, as disclosed in paragraph [0010].

There is no disclosure or suggestion in Masanobu of a fabric for sportswear including swimwear having the specific uneven portions on the surface side opposite to the wearer’s body as well as the specific compression ratio of micro-area in the fabric surface as defined in the present invention. In fact, there is no disclosure or suggestion

in Masanobu regarding any matter on the surface side of the swimwear opposite to the wearer's body. On the contrary, the sportswear of the present invention, including the claimed swimwear, has the specific streaky protruded portions on the surface side opposite to the wearer's body. As noted, this provides the noted advantageous effects. While fabric may be worn inside out, sportswear such as swimwear would never be because the swimmer wants to swim at the highest speed possible and if it was intended to be so worn, then that is the only way it would be worn by the swimmer.

Accordingly, it is submitted that neither claim 1 nor dependent claims 3-9, 11 and 12 are anticipated by Masanobu.

Nor can the claims be considered to be obvious in view of Masanobu because there is not the slightest teaching in the reference, as noted, of anything on the surface side of the fabric of the described swimwear.

As required by MPEP § 2143.03, "all words in a claim must be considered in judging the patentability of that claim against the prior art" and it is apparent the Examiner has not done so since the comments on page 3 of the Office Action do not mention anything about the location of the claimed protrusions. Moreover, as noted in MPEP § 2143.02, to support a conclusion that a claim would have been obvious, "all the claimed elements" must have been known in the prior art; and the Examiner has not shown where the claimed protrusions exist in Masanobu or why it would be obvious for the fabric of the sportswear to have them.

Accordingly, it is submitted the Examiner has not clearly articulated the reasons why the claimed invention would have been obvious as required by MPEP § 2142 and 2143.

Withdrawal of the rejection of the claims under § 102(b) and § 103(a) over Masanobu is therefore requested.

Withdrawal of the rejections of the claims for being anticipated by or for being obvious over Waring or Fusco is appreciated. Now the Examiner rejects the claims under § 103(a) for being obvious over Waring in view of Boynton (U.S. 4,956,878).

As discussed in the Reply of September 19, 2007, Waring discloses a wearable article having a drag reduction arrangement such as vortex generators to decrease resistance of a fluid. Specifically, the vortex generators consist of small flexible plastic pieces sewn or molded in rows on specific portions of the article.

In the vortex generators of Waring, the shape is a continuous arrangement of small plastic pieces and the size of the plastic piece is 0.25 inch high, 1 inch (2,540 μm) wide and 2 inch long (see col. 6, lines 44 to 45 of Waring).

On the other hand, in the present invention, the protruded portions have a width of 100 to 2,500 μm and a height of 30 to 300% of the width of the protruded portions.

When the protruded portions have a width of 2,500 μm or less, the effect of the protruded portions is effectively displayed because areas suffering from fluid resistance are not excessively large and are suitable. As a result, deformation caused by compression is sufficient, and the effect of decreasing fluid resistance becomes high in accordance with the deformation. A compression deformation is likely to take place when the protruded portions have a small width. However, when the width is extremely small, the effect of decreasing fluid resistance is lessened because the deformation amount becomes very small, as disclosed on page 7, line 31 to page 8, line 6 of the specification.

As explained above, the present invention provides the unexpected effect of decreasing the resistance of the sportswear such as swimwear to a fluid such as water. This is due to the specific size of the protruded portions which is smaller in size than that of the vortex generators of Waring by about one tenth.

Boynton discloses a garment such as a swimsuit having highly elastic portions like a band.

It would be very difficult or impossible to form the vortex generators (the protruded portions) of Waring out of the means disclosed in Boynton, because a continuous arrangement of the small plastic pieces of Waring could not be formed by these means. Moreover, there is no disclosure or suggestion in Boynton regarding the unexpected effects of the present invention produced by the specific protruded portions.

Thus, it is not seen how the combination of Waring and Boynton teaches all of the Applicant's claimed limitations as required by MPEP § 2143.02 and 2143.03 to support a conclusion of obviousness. Withdrawal of the rejection of the claims under §103(a) over Waring in view of Boynton is therefore requested.

It is believed claims 1, 3-9, 11 and 12 are now in condition for allowance.

In view of the foregoing amendments and remarks, Applicant respectfully requests reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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